

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

REPEAL OF ARTICLE 24, STATE MUSEUMS AND HISTORIC SITES))))	Administrative Cause Number 11-133A (LSA Document #11-663(F))
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**REPORT ON RULE PROCESSING, PUBLIC HEARING, AND HEARING OFFICER
ANALYSES AND RECOMMENDATION REGARDING FINAL ADOPTION**

1. RULE PROCESSING

For consideration is the proposed repeal of 312 IAC 24, which formerly provided standards governing State Museums and Historic Sites under the structures of the Department of Natural Resources and the Natural Resources Commission. Effective July 1, 2011, Public Law 167-2011 repealed IC 14-20-1, which established State Museums and Historic Sites. With the statutory repeal, State Museums and Historic Sites is no longer a division of the Department, and the Board of Trustees under Title 14 does not exist. Simultaneously, P.L. 167-2011 established a new Indiana State Museum and Historic Sites Corporation (the “Corporation”)¹. The Corporation is a public body corporate and politic, and an instrumentality of the State. IC 4-37-2-2.

The Commission gave preliminary adoption to the rule amendments on September 20, 2011. As reported in the pertinent portions of the September 20 minutes:

The Chair again recognized Steve Lucas to present this item.

¹ After June 30, 2011, rules that concern the division of state museums and historic sites that were adopted by the natural resources commission shall be treated as rules applying to the corporation. After June 30, 2011, a reference to the department in a statute or rule concerning the division of state museums and historic sites shall be treated as a reference to the Corporation. § Ind. Code 4-37-2-8.

Lucas responded, "Thank you, Mr. Chairman. This is really the first step into what will be a multi-stage process. The Commission will be asked to separate the provisions in rules and nonrule policy documents that pertain to the former Division of Museums and Historic Sites of the Department. Public Law 167-2011 repealed the underlying authority for that body in former IC 14-20-1 and established a 'public body corporate and politic' that is now the Indiana State Museum and Historic Sites Corporation. The ISMHSC will adopt its own rules and its own nonrule policy documents. The first proposal would remove the entirety of 312 IAC 24," an article probably best known to the Commission for the process to deaccession museum artifacts. The Commission will no longer be involved with deaccessioning. "At the request of the folks at the ISMHSC, I would ask that any public hearing on the repeal of 312 IAC 24", and any vote to repeal the rule, be deferred until after January 1, 2012.

Chairman Poynter observed, "I know the Advisory Council has already looked at the proposed repeal of 312 IAC 24 and recommended the same."

Lucas added, "Correct."

Brian Blackford moved to give preliminary adoption to the repeal of 312 IAC 24, pertaining to activities of the Department's former Division of Museums and Historic Sites, with any public hearing and final Commission action to be deferred until 2012. Mark Ahearn seconded the motion. On a voice vote, the motion carried.

The "Notice of Intent" to adopt a proposed rule amendment was posted to the INDIANA REGISTER at 20111019-IR-312110663NIA on October 19, 2011. The notice identified Stephen Lucas, Director of the Commission's Division of Hearings, as the "small business regulatory coordinator" for purposes of IC 4-22-2-28.1.

As specified by Executive Order, proposed fiscal analyses of the rule proposal were submitted, along with a copy of the proposed rule language and a copy of the posted Notice of Intent, to the Office of Management and Budget on October 20, 2011. In a letter dated December 19, 2011, Adam M. Horst, Director, Office of Management and Budget, recommended the proposed rule amendments be approved.

The Division of Hearings submitted the rule proposal to the Legislative Services Agency, along with the "Statement Concerning Rules Affecting Small Business" (also known as the "Economic Impact Statement"), on December 30, 2011. The Notice of Public Hearing was submitted to the Legislative Services Agency on January 3, 2012. On January 11, 2012, the following were posted to the INDIANA REGISTER: the text of the proposed rule at 20120111-IR-312110663PRA; the notice of public hearing along with the justification statement (IC 4-22-2-24(d)(3)) at

20120111-IR-312110663PHA; and the Economic Impact Statement at 20120111-IR-312110663EIA. On January 3, the Legislative Services Agency had provided an “Authorization to Proceed”. On January 6, the Division of Hearings caused a Notice of Public Hearing to be published in the Indianapolis *Daily Star*, a newspaper of general circulation in Marion County Indiana. In addition, the notice of the public hearing and a summary of the proposed rule changes were published on the Commission’s web-based electronic calendar.

The Statement Concerning Rules Affecting Small Businesses (the “EIS”), as required under IC 4-22-2.1-5, and submitted by the Small Business Regulatory Coordinator, indicates the proposed amendment to repeal 312 IAC 24 would “not create any cost or requirements for businesses”. Review by the Indiana Economic Development Corporation (the “IEDC”) was not required due to the resulting economic analysis. The Indiana State Museum and Historic Sites Corporation was informed regularly during the process for the proposed repeal of Article 24.

2. PUBLIC HEARING AND WRITTEN COMMENTS

No comments were received regarding the proposed repeal of Article 24.

3. HEARING OFFICER ANALYSES AND RECOMMENDATION REGARDING FINAL ADOPTION

The proposed rule is a housekeeping measure and would repeal 312 IAC 24. As indicated by the Legislative Services Agency in the attachment, “IC 14-20-1 was repealed by P.L. 167-2011, SECTION 31, effective July 1, 2011.” With the repeal of IC 14-20-1, 312 IAC 24 was voided. The rule is needed to formalize for 312 IAC 24 the executed effect of P.L. 167-2011. The benefit of repealing 312 IAC 24 is to eliminate confusion which might otherwise result from the existence of published rules that no longer have legal effect.

This repeal and the repeal or modifications of other rules and of nonrule policy documents that reference the DNR’s former Division of State Museums and Historic Sites, or that provide standards and policies regarding activities on properties administered by the former Division, are being performed in cooperation with Corporation efforts to adopt its own rules and nonrule

policy documents. The Corporation caused to be filed a “Notice of Intent” to adopt a rule (LSA Document #11-726), with notice posted to the Indiana Register on November 30, 2011. The Corporation’s rules are proposed to be codified at 313 IAC. The repeal of Article 24 is recommended as an important stage for the implementation of P.L. 167-2011.

Dated: February 10, 2012

Jennifer M. Kane
Hearing Officer

Stephen L. Lucas
Hearing Officer